

## **REMARKS**

In response to the Office Action mailed on October 17, 2007, the Applicants respectfully request reconsideration in view of the following remarks. In the present application, claims 1, 4, 5, 15, 18, 21, and 26 have been amended. Support for the amendments can be found in the specification at least on page 14, lines 1-13. No new matter has been added.

Claims 1-11 and 13-26 are pending in the application. In the Office Action:

1. The specification is objected to;
2. The drawings are objected to;
3. Claims 1, 4, 5, and 13-26 are objected to; and
4. Claims 1-11, and 13-26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hollman et al. (U.S. Patent No. 7,146,000, hereinafter "Hollman") in view of Chiu et al. (U.S. Patent No. 6,597,689, hereinafter "Chiu").

### **Specification Objections**

In the Office Action, the specification is objected to for because of informalities. In response, the specification has been amended as suggested in the Office Action. However, the Office Action states:

page 8 the paragraph beginning with "the data network . . ." should be removed up until line 29 ending with "failover network 17" as this is not claimed or described in the drawings.

page 12 the paragraph beginning with "the network management . . ." should be removed up until line 13 ending with "failover network 17" as this is not claimed or described in the drawings.

Regarding these statements, Applicants' representative phone the Examiner on March 26, 2008 and the Examiner suggested amending the specification to remove reference numerals from the specification that are not in the drawings. Accordingly, the specification has been amended as the Examiner suggested. Accordingly, Applicants respectfully request this objection be withdrawn. In addition, the reference numerals are being removed without prejudice or

disclaimer and Applicants reserve the right to replace the reference numbers, amend the drawings, and/or claim the material.

### **Drawing Objections**

In the Office Action, the drawings are objected to for not showing every feature of the invention specified in the claims. In particular, the Office Action states the DLCIs, VPI/VCI, PVCs and SVCs must be shown or the feature(s) canceled from the claim(s). In response, Applicants respectfully traverse this objection.

It is respectfully submitted that those skilled in the art will appreciate that in frame relay networks, DLCIs are 10-bit address fields contained in a header of each data frame and contain identifying information for a logical circuit as well as information relating to a destination of the data in the frame and service parameters for handling network congestion. VPI/VCIs are similar address fields for ATM networks. See Specification, page 6, line 16-page 7, line 2. Figure 1 shows a data network which, as described in the Specification on page 6, line 16-page 7, line 2, may be a frame relay network or an ATM network and which may utilize DLCIs or VPI/VCIs to identify the logical circuits shown therein. Thus, it is respectfully submitted that the data network shown in Figure 1 also inherently shows DLCIs and VPI/VCIs since these address fields are inherent with respect to frame relay and ATM networks.

Figure 1 shows a data network which, as described in the Specification on page 8, lines 14-21, includes a logical circuit which may be either a PVC or an SVC. As described on page 6, lines 3-15 in the Specification, the logical circuit in Figure 1 may include the variable communication path within the LATA 5 and a fixed communication path (i.e., the logical connection 102) between the LATA 5 and the IEC 10. Thus, it is respectfully submitted that the

data network of Figure 1 inherently shows a PVC or an SVC since, as described in the Specification, the logical circuit shown therein may be either of these circuit types.

Based on the foregoing, it is respectfully submitted that the objection to the drawings be withdrawn.

### **Claim Objections**

In the Office Action, the claims 1, 4, 5, and 13-26 is objected to for because of informalities. In response, the claims 1, 4, 5, 15, and 18 have been amended to change “deleting” or “delete” to “disconnecting” or “disconnect” as suggested by the Office Action. These amendments are to further prosecution and in no way limit or alter the scope of the amended claims.

In addition, the Office Action suggest renumbering claims 13-26 to claims 12-25 due to claim 12 being missing. Applicants respectfully submit that the claims cannot be renumbered. See 37 C.F.R. 1.126. Instead, claim 12 has been added with the alternate status identifier “Not Presented” to indicate claim 12 was never presented to the Office for examination. See MPEP 714(II)(C)(E).

Claim 21 has been amended to be dependent upon claim 20 and not itself. Therefore, it is respectfully submitted that the objection to the abstract and specification be withdrawn.

### **Claim Rejections - 35 U.S.C. §103**

Claims 1-11, and 13-26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hollman in view of Chiu. The rejection of these claims is respectfully traversed.

Amended claim 1 specifies a method for provisioning logical circuits for intermittent use in a data network. The method includes receiving at least one customer order for routing data in

the data network for a predetermined time period; provisioning at least one logical circuit in the data network for routing the customer data during the predetermined time period, wherein provisioning the at least one logical circuit comprises: receiving, from the at least one customer order, logical circuit parameter data at a logical element module; adding the at least one customer request to a first batch of logical circuits to be created at the predetermined time; locating, at the logical element module, at least one network device and at least one programming port on at least one switch; utilizing the at least one network device and the at least one programming port to create the at least one logical circuit in the first batch at the predetermined time; adding the at least one logical circuit to a deletion batch; and disconnecting the at least one logical circuit in the deletion batch at the end of the predetermined time period.

It is respectfully submitted that the combination of Hollman and Chiu fails to teach, disclose, or suggest each of the features specified in amended claim 1. For example, the aforementioned combination fails to disclose adding the at least one logical circuit to a deletion batch; and disconnecting the at least one logical circuit in the deletion batch at the end of the predetermined time period.

In contrast and as stated in the Office Action, Hollman fails to teach deleting the at least one logical circuit at the end of the predetermined time period. See Office Action, page 5, lines 6-7.

Chiu fails to overcome Hollman's deficiencies. In contrast, Chiu merely discusses how a PVC is permanently programmed into a network for continuous use or as long as the subscriber desires between end systems for multiple sessions. See col. 18, lines 46-49. In contrast, a switched virtual connection (SVC) is a temporary virtual circuit that lasts as long as the session between end systems lasts. See col. 18, lines 49-51. In, Chiu, the carrier sets up and disconnects

SVCs on the fly, while PVCs are statically set up and torn down by the network management system (e.g., carrier) in a non-timely fashion (i.e., hours or days may pass before the connection is established). See col. 18, lines 51-55. SVCs are set up and torn down dynamically by the ATM end systems using a UNI signaling protocol. See col. 18, lines 55-57.

Consequently, Chiu teaches SVCs lasting only as long as a session lasts and PVCs that are torn down in non-timely fashions. In particular, Chiu fails to teach or disclose adding a logical circuit to a deletion batch disconnecting the logical circuit in the deletion batch at the end of the predetermined time period.

In addition, it is respectfully submitted that the combination of Hollman and Chiu fails to teach, disclose, or suggest wherein provisioning the at least one logical circuit comprises: receiving, from the at least one customer order, logical circuit parameter data at a logical element module; adding the at least one customer request to a first batch of logical circuits to be created at the predetermined time; locating, at the logical element module, at least one network device and at least one programming port on at least one switch; utilizing the at least one network device and the at least one programming port to create the at least one logical circuit in the first batch at the predetermined time; adding the at least one logical circuit to a deletion batch.

In contrast, Hollman merely discusses collecting information to provide customers information on availability. See col.3, lines 64-67. Hollman may disclose determining possible paths for a private line circuit, to be provided to the customer, but Hollman is silent regarding adding customer request to a batch and creating logical circuits in the batch. See col. 4, lines 1-32.

Chiu fails to overcome Hollman's deficiencies. In contrast and as stated above, Chiu merely discusses teaches SVCs lasting only as long as a session lasts and PVCs that are torn

down in non-timely fashions. In particular, Chiu fails to teach or disclose adding customer request to a batch and creating logical circuits in the batch.

Thus, based on the foregoing, amended claim 1 is allowable over the combination of Hallman and Chui and the rejection of this claim should be withdrawn. Claims 2-11, 13, and 14 depend from amended claim 1, and are thus allowable for at least the same reasons. Therefore, the rejection of these claims should also be withdrawn.

Amended independent claim 15 and 26 specifies similar features as amended claim 1 and thus is allowable over Hallman and Chui for at least the same reasons. Based on the foregoing, the combination of Hallman and Chui fails to teach, disclose, or suggest each of the features specified in claims 15 and 26. Therefore, claims 15 and 26 are allowable and the rejection of this claim should be also withdrawn. Claims 16-25 depend from amended claim 15, and are thus allowable for at least the same reasons. Therefore, the rejection of these claims should also be withdrawn.

### **Conclusion**

In view of the foregoing amendments and remarks, this application is now in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is invited to call the Applicants' attorney at the number listed below.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 13-2725.

Respectfully submitted,

MERCHANT & GOULD P.C.  
P.O. Box 2903  
Minneapolis, Minnesota 55402-0903  
(404) 954-5064

Date: April 17, 2008

/Alton Hornsby III/  
Alton Hornsby III  
Reg. No. 47,299

